

disabled. Here I think digital television is a great tool to be used. The increased bandwidth will allow broadcasters to air programs of higher quality and provide more access to them. Since digital broadcasters have much more bandwidth they can reasonably provide closed captioning, video description, or other comparable means for the disabled.

People for Better TV wants stations to "provide closed captioning and description services for the blind of PSAs, public affairs programming, and political programming."<sup>8</sup> They would like to see this implemented by 2006, at the latest.<sup>9</sup> Currently mandatory closed captioning is being phased in (finished around 2008.)

The FCC should adopt guidelines specifically relating to the use of digital television to increase access for the disabled. 2006 is not an unreasonable date and the FCC should mandate that broadcaster meet this. The FCC should constantly look to develop new services that digital television could provide the disabled. Closed captioning or comparable descriptive service should be available when stations begin broadcasting in digital. Broadcasters were given billions of dollars worth of airwaves;<sup>10</sup> the least that

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<sup>8</sup> 65 Fed. Reg. 4211, 4214

<sup>9</sup> 65 Fed. Reg. 4211, 4214

<sup>10</sup> [www.cme.org/pubin.html](http://www.cme.org/pubin.html)

they can do is provide service to make it more accessible for the disabled.

Another important goal for the FCC is increasing diversity in voice and ownership of digital television. Digital television provides an excellent opportunity to increase the diversity of the voice on television. With multiplexing, each local station could provide news coverage focussing on different areas of the community.

Deciding where this could be done will be more difficult. The FCC should not mandate that any or all stations do this. Rather, wherever fiscally profitable this would be an excellent way to increase the political, social, and moral views on television. To spur this movement incentives should be given to stations that multicast local coverage. If viewers really want more diverse television views it will be evident from the success or failure of these secondary channels.

Finally, with the advent of digital television there are some people who want stations to disclose more information to the public on their affairs. Currently stations must file "quarterly reports on their non-entertainment television and children's programming."<sup>11</sup> People for Better TV want a more comprehensive survey

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<sup>11</sup> 65 Fed. Reg. 4211, 4213

including electronic surveys and announcements.<sup>12</sup> The Advisory Committee asked for more standardized forms that are easier for the public to understand.<sup>13</sup> They also recommend that the stations make this information more available to the public.

I think that these measures are a waste of time and money. During the 1980's the FCC vacated regulations very similar to these.<sup>14</sup> There is no reason for them to reinstate them. Almost everyday during the local news and during the children's programming Knoxville affiliates tell me where and how I can find the information currently required. Making them put it on the Internet or including simplified forms will not make me care anymore about it or make television better. The best thing for the Commission to do is maintain its current rules that apply to analog broadcasts and apply them to digital ones as well.

### **Conclusion**

The need to increase political discourse is false. There is already a glut of national, state, and local politics all over major networks, subsidiaries like CNN, and local affiliates. Mandating that broadcasters allot a

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<sup>12</sup> 65 Fed. Reg. 4211, 4213

<sup>13</sup> 65 Fed. Reg. 4211, 4213

<sup>14</sup> 65 Fed. Reg. 4211, 4213

certain amount of time to political views would be pointless.

Many others would like to see stations disclose more of what they do for the public. However the FCC already decided in the 1980's that stations did not need to disclose as much. Honestly, I have never heard of or known anyone who went down to a station to check on their disclosures. More regulation would just be a waste of time.

One area that should be regulated and could be done with minimal intrusion is increasing access to television for the disabled. Every station that provides digital television should be required to provide enhanced closed captioning or video description by 2006. The cost is minimal and with a broader spectrum every digital station should be able to meet minimal standards.

The broadcasters received a deal of a lifetime with free digital airwaves. They accepted it and should accept any regulation that FCC deems appropriate. However, because broadcasters are more inclined to act for monetary reasons than arbitrary rules the FCC should limit its mandates on digital broadcasters.

Sincerely,

Robert Lee McElroy IV

To: Magalie Roman Salas, Secretary-FCC

From: Shandry Castelow

CC: Professor Glenn Reynolds

Date: 03/17/00

Re: Public Interest Obligations of Television Broadcast Licensees

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RECEIVED  
MAR 23 2000  
FCC MAIL ROOM

Dear Secretary Salas,

In response to the FCC's request for public comments, 65 FR 4211, (January 26, 2000), I want to communicate my views as a television consumer who is concerned about the business aspect of digital television. I am writing in opposition to new minimum public interest guidelines that would be imposed on television stations.

Responding to the Community:

Minimum Public Interest Obligations:

Introduction and Background

As broadcasters transition to digital transmission technology, they encounter many financial burdens and are faced with creating new ways to do business. In addition, the Advisory Committee Report recommends that "[t]he FCC should adopt a set of mandatory minimum public interest requirements for digital broadcasters . . . ." Some members of the Committee reason that broadcasters have been given a free gift of expanded channels and that many broadcasters would not voluntarily add public interest

shows. However, the marketplace offers sufficient incentives for stations to include diverse public interest programming (e.g. the Internet).<sup>1</sup> Also, stations will be spending millions of dollars to build new towers, to pay for electricity, and to secure the highest technology in order to compete in the market. Many stations admit that they have no idea if their investment will pay off, and they will have to look to sources other than advertising for revenue because the current trend is toward commercial free programming. In sum, far from digital television being a free gift, most broadcasters are unsure of what options exist or how to become profitable after spending millions for the upgrade. Instead of imposing one more mandate on the stations, the FCC should encourage seamless transition into digital television.

An illustration may help to illustrate my concern. Many “mom and pop” stations are selling the station rather than make the expensive transition. In Montgomery, Alabama, David Woods, owner of WCOV-TV, only has a market of 219,000 viewers. He says that he will have to spend 4.5 million dollars over the next three years to meet the transition deadline. He states that spending that amount of money on equipment is “100 percent of annual average revenue . . . .”<sup>2</sup>

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<sup>1</sup> In an attorney’s summary of the Commission’s report, December 18, 1998, a core concept of the report was that “information, voluntary self-regulation and economic incentives are preferable to regulation.”

<sup>2</sup> <http://www.digitaltelevision.com/business998p.shtml>

## FCC Should Focus on Economic and Technical Realities of Transition, Not New Public

### Interest Requirements

While no exact dollar figure can be set, experts believe that it will cost between \$5 million and \$12 million per station to make the [digital] change. And since Congress has mandated that this be done by 2006, stations with limited budgets have been struggling to find a way to comply.<sup>3</sup>

The first concern is that while the larger companies have the budget to build towers and the staff to oversee digital programming, smaller companies do not have these resources. While presidents of ABC are contemplating live-action sports,<sup>4</sup> smaller companies are struggling to negotiate loans with banks and to pay an increased energy bill every month.

For example, smaller stations fear that given increased competition from satellite television<sup>5</sup> and that digital television has yet to prove viable, banks will hesitate to finance the venture. Also, with no cash reserve, a smaller company will have to find collateral for loans. David Woods, owner of a small station calculated that if he borrows \$3 million for a transmitter, his expenses will increase \$200,000 a year. So, he will have to have other collateral for the loan because he cannot tell the bank that he will have increased revenue. "It will actually decrease revenue."<sup>6</sup>

Another example is that once the digital signal is up, a station has additional energy bills to keep it there. At WBNS in Columbus, Ohio, "the digital transmitter sucks up

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<sup>3</sup> <http://www.digitaltelevision.com/business1298bp.shtml>

<sup>4</sup> <http://www.digitaltelevision.com/business1199p.shtml>

<sup>5</sup> Owner of a small station states that "in five years, what are you going to have that people can't get anywhere else?" <http://www.digitaltelevision.com/business998p.shtml>

<sup>6</sup> *Id.*

about \$22,000 a month in energy costs” (as opposed to \$5,000 a month for the analog transmitter).<sup>7</sup> ““That discrepancy is the worst combination, having V for your analog and the U for your digital.””<sup>8</sup> Even though the station increased their viewers (although only 334 viewers watched a HDTV football game because not many people have receivers yet), the station has petitioned the FCC “to broadcast the signal only intermittently, since the station wasn’t required to have its signal up until November 2003.”<sup>9</sup> The owner stated that “[w]e turn it off once in a while. We realized what the operating cost was, so there was no reason to run our transmitter at \$22,000 a month.”<sup>10</sup>

The second concern is that even big stations are uncertain about the future of digital television. Stations are trying a lot of new things to stay competitive in their market. While advertising is usually a huge source of revenue for stations, the prediction is that “digital broadcasting will deliver the final blow to commercials.”<sup>11</sup> Stations are trying everything from real-time web casting with news broadcasts to technical advice for HDTV makers in exchange for equipment use.<sup>12</sup> Stations are using a lot of their resources to develop new business models while being completely uncertain of the benefits.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* This technical problem seems to be common.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> <http://www.digitaltelevision.com/business199p.shtml>

<sup>12</sup> *Id.*



For example, in a recent interview with Preston Davis, president of the Broadcast Operations & Engineering division ABC:

DTV: Do you see a clear business model for DTV?

Davis: Your question assumes that anybody thought that there was going to be a way to make money off of digital television [laughing]. I don't. We certainly didn't go into this believing that that was necessarily the case, and I think history will prove that it probably wasn't.<sup>13</sup>

### The Marketplace Provides Sufficient Incentives to Respond To Community Needs

The Internet is a great model for and testament to the unregulated growth of an industry. With viewers having choices of satellite, cable, and additional networks, the market will encourage programmers to cater to their local community. Today, the trend is toward specialization and niches that target a specific audience. My Internet Service Provider regularly hosts exotic pet chat nights. The communications business is so large that now minorities and once overlooked groups are being recognized as viable consumers.

Also, as companies struggle to compete with so many other companies for viewers, they have come up with completely innovative solutions such as delivering specific shows at a specific times. Broadcasters have sought out the best available equipment so that they can deliver the most data at the fastest rate and in several mediums. In fact, in the race to deliver more information at a faster rate, stations look to the Internet for answers.<sup>14</sup> And with lots of people communicating via e-mail, viewers have access to reach their stations and voice their concerns and ideas.

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<sup>13</sup> *Id.*


<sup>14</sup> <http://www.digitaltelevision.com/business199p.shtml>

### Conclusion

New minimum public interest requirements are not necessary to drive broadcasters to produce community service shows. Plenty of marketplace incentives exist such as the Internet, competing markets, and public access. Also, broadcasters face enough mandates and technical and financial burdens in their transition to digital transmission. Extra requirements will burden already strained finances and resources, particularly small stations. And specific requirements might actually keep new programming out of broadcasting. For example, lots of small Internet companies catered to a specific interest because they were economically and technically supported. If the small companies had been regulated or if the Internet could only host certain sites, then maybe a new area would not have been developed. Today, lots of web sites exist that respond to the smallest of matters. I think any interest can be found on the Web. I think that digital television should be given the same opportunity to grow.

Thank you for your consideration.

Cordially,

A handwritten signature in black ink, appearing to read 'Shandry', with a long, sweeping horizontal line extending to the right.

Shandry Castelow

**To:** The Federal Communications Commission

**From:** Nathan D. Sukhia

**CC:** Professor Glenn H. Reynolds

**Date:** 03/11/00

**Re:** Additional public interest requirements for digital television broadcasters

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**RECEIVED**

**MAR 23 2000**

**FCC MAIL ROOM**

Dear Commission,

In response to your Notice of Inquiry, MM Docket No. 99-360, (December 15, 1999), I want to communicate my views as a regular consumer of television broadcasting. I am writing in opposition to increased public interest requirements for digital television broadcasters. I trust that you have not ceased consideration of comments offered.

### **Introduction and Background**

The President's Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters ("Advisory Committee") and People for Better TV have submitted recommendations on the public interest obligations digital television broadcasters should assume. These recommendations are premised on the notion that broadcasters have been given a gift of free additional spectrum with which to offer new and potentially profitable services. Because this spectrum could have been auctioned to support various public needs, the gift of additional spectrum brings with it increased public interest obligations.

### **What Broadcasters have Received**

Digital television has provided broadcasters the means to multicast (multiplex) or datacast. When a digital broadcaster multicasts, that broadcaster provides more than one

program on a bandwidth normally used for only one program. When a digital broadcaster datacasts, that broadcaster uses bandwidth not consumed by normal broadcasting to send out data. Both multicasting and datacasting are considered ancillary benefits because they are offered in addition to the main or foundation program. Of course, the most obvious import of digital television is a digital picture that is of better quality than that of a standard analog picture.

### **Public Interest Requirements for Multicasting**

Cutting through the technical terminology, the ability to multicast means one thing: digital broadcasters have the option to operate two or more programs with only one license. Except for the existence of an additional channel, the choice to exercise that option will go unnoticed. When one changes the channel on one's television, one may be unaware of the fact that the program one is currently watching and the program one was previously watching are actually coming from the same television station. To put it more simply, the public will be unable to distinguish between a multicast and non-multicast programming.

The public interest requirements currently placed on all digital and analog broadcasters came into effect because broadcasters were provided a gift that incidentally gave them a unique ability to benefit the public. If, as the Advisory Committee and People for Better TV claim, that original gift has been increased or digital broadcasters have been provided a better gift that requires increased public interest obligations, then it seems that digital broadcasters must have also incidentally received a greater ability to benefit the public. However, the greater ability to benefit the public is no where to be found. The ability to multicast is nothing more than the ability to broadcast another

television program that has the same ability to benefit the public as any other digital or analog program.

The fact that the ability to multicast bears no increased ability to benefit the public is reinforced by a cursory examination of the public interest standards proposed by the Advisory Committee and People for Better TV. With the exception of those standards that target datacasting, the proposed standards can be as easily implemented through analog broadcasting as digital broadcasting. Furthermore, and most importantly, the proposed standards would have the same impact on the public regardless of whether those standards were implemented through analog broadcasting or digital broadcasting.

As to multicasting, clearly the Advisory Committee and People for Better TV are not motivated by the fact that digital broadcasters suddenly have at their disposal new technology that can be used to better serve the public interest. Instead, they have, as Commissioner Harold Furchtgottroth so plainly put it, “seized on this opportunity to wring as many concessions as possible out of broadcasters. The [Advisory Committee and People for Better TV] do not appear to require any particular linkage between the proposals and the transition to DTV.” Because the Advisory Committee and People for Better TV are unable to demonstrate any link between their proposals and an increased ability to serve the public, their proposals should be rejected. Furthermore, because it is impossible to demonstrate that the ability to digital multicast bears an increased ability to benefit the public, the Commission should refrain from altering the standards that are currently in place.

As the D.C. Circuit stated in 1969, “in applying the public interest standard to programming, the Commission walks a tightrope between saying too much and saying

too little.”<sup>1</sup> The Commission must walk that tight rope because it must “minimize the dangers of censorship or pervasive supervision.”<sup>2</sup> The United States Supreme Court has made that tight rope even slimmer by pointing out that the notion that broadcasters can be regulated because they are the only source of information has come and gone.<sup>3</sup> “In most areas [the FCC] has resolved the dilemma by imposing only **general affirmative duties** – e.g., to strike a balance between the various interests of the community.”<sup>4</sup>

By statute, the Commission is required to “apply to any other ancillary and supplementary service such of the Commission’s regulations as are applicable to the offering of **analogous** services by any other persons.”<sup>5</sup> As to multicasting, the analogous service is clearly standard analog broadcasting. The courts have affirmed that public interest requirements for analog broadcasting meet Constitutional as well as statutory requirements. The Commission should be very reluctant to dispose of public interest requirements that have passed Constitutional and statutory muster and have functioned well, when there is no reason to do so.

### **Public Interest Requirements for Datacasting**

Datacasting, as distinguished from multicasting, is completely different from any other broadcasting formerly regulated by the FCC. Datacasting has enormous potential to offer the public such things as CD quality music, personalized stock quotes, and so on. Indeed, it is unclear what broadcasters may choose to do with their bandwidth that is not consumed by multicasting because at this point, the possibilities are endless.

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<sup>1</sup> *Banzhaf v. FCC*, 405 F.2d 1082, 1095 (D.C. Cir. 1968).

<sup>2</sup> *Id.*

<sup>3</sup> *See Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969).

<sup>4</sup> *Banzhaf* at 1095. (emphasis added).

<sup>5</sup> 47 U.S.C. § 336(b)(3) (emphasis added).

In order to retain their license, broadcasters are required to apply to build DTV facilities, be granted a construction permit, and then complete construction, all of which costs millions of dollars. Although stations are required to broadcast one free television program service of a quality at least equal to that of a standard analog signal, broadcasters are permitted to receive payment for advertising on the free program that will allow them to recover the cost of operating the required free program. Broadcasters are then permitted to either multicast or datacast on excess bandwidth for a fee, less the 5% charge established by the Commission. Fee broadcasting will allow broadcasters to recover the cost of building a digital television station. Thus, the ability of a broadcaster to recover the cost is largely dependent on the development of financially viable datacasting and multicasting.

In order to multicast, digital broadcasters must develop programs in addition to the foundation program. Thus, broadcasters that were operating only one analog program must find the financial means to operate two, three, or even four digital programs in order to derive income from multicasting. Because digital broadcasters will be reeling from the cost of building a new digital broadcasting facility, many may be unable to finance the startup and maintenance costs of additional programs. On the other hand, datacasting will undoubtedly have much smaller startup and maintenance costs. Thus, in the early stages of the conversion to digital television, broadcasters will inevitably turn to paid datacasting to recover the cost of a new digital station.

As previously stated the Commission is by statute required to “apply to any other ancillary and supplementary service such of the Commission’s regulations as are

applicable to the offering of analogous services by any other person.”<sup>6</sup> Thus, the public interest requirement for datacasting is dependent on the type of data being cast. Because the Commission has not previously regulated such data, it will have to develop specialized public interest requirements for each new type of data that broadcasters choose to cast. However, at this time it is uncertain just what type of data stations will choose to broadcast. Because, at least initially, digital broadcasters will be largely relying on datacasting income, the form of datacasting will be particularly market driven.

The Advisory Committee and People for Better TV would have the Commission apply sweeping public interest requirements for datacasting. The public interest requirements proposed by both organizations would be particularly taxing for newly created digital broadcasting stations because they will inevitably decrease income that is and will be so desperately needed, especially before digital television is embraced by the public. In particular, stringent public interest requirements at the outset may frustrate broadcasters financial ability to experiment with new and innovative uses for datacasting. Finally, the proposals, although sweeping, provide little if any actual guidance as to how public interest requirements will be implemented because neither organization knows just what forms of datacasting broadcasters may choose to implement. For these reasons, the Commission should reject the proposals of the Advisory Committee and People for Better TV.

The Commission should decline to apply public interest standards to datacasting until recognizable forms of datacasting come into existence and become financially viable. By so doing, the Commission will allow market principles, rather than FCC rules, to drive the development of datacasting. This works to the advantage of the public

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<sup>6</sup> 47 U.S.C. § 336(b)(3).



because public interests can only be served through sustained datacasting, and datacasting can only be sustained if it is allowed to become and remains economically viable. Once forms of datacasting are developed and it is apparent they will be sustained, the Commission will be better situated to understand just what public interests datacasting can benefit. In addition, at that time the Commission will be better equipped to determine what if any presently regulated services is analogous to the datacasting in question so as to meet statutory requirements.

As the Supreme Court stated, the public interest standard is “a supple instrument” designed to be flexible enough to accommodate the “dynamic aspects of radio transmission . . . .”<sup>7</sup> Accordingly, the Commission should not, out of fear that it might fall behind the public interest rulemaking curve, rush to set standards for forms of communication that have not yet solidified. Additional rulemaking will always be available.

### **Conclusion**

The Commission should not adopt additional public interest requirements for digital broadcasters at this time. Multicast programs are not significantly different from traditional analog programs and because they cannot provide the public greater benefits, they should not have to meet a greater public interest standard. In addition it is uncertain just what forms of datacasting broadcasters will choose to utilize and will become financially viable to utilize. Finally, additional public interest standards will place an unnecessary financial burden on digital broadcasters at a time when digital broadcasters are particularly financially vulnerable.

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<sup>7</sup> *FCC v. Postville Broadcasting Co.*, 309 U.S. 134, 138 (1940).

**To:** Magalie Roman Salas, Secretary-FCC  
**From:** Robert L. Vance  
**CC:** Professor Glenn H. Reynolds  
**Date:** 03/17/00  
**Re:** Comments on Proposed "Public Interest Obligations of  
Television Broadcast Licensees" Regulations

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RECEIVED  
MAR 23 2000  
FCC MAIL ROOM

Dear Secretary Salas,

I am writing in response to the FCC's request for comments, 65 FR 4211, (January 26, 2000), on broadcasters' public interest obligations during and after their transition from analog to digital television ("DTV"). As an avid television watcher, a parent, and law student, this issue both interests and concerns me. While I recognize the importance and benefits of community service by broadcasters, I do not believe that excess government regulation is the proper method for obtaining this service. I feel that the open market, along with minimal government regulation, can make DTV a valuable asset for serving the public interest. Specifically, I propose that, at the very least, no new public interest obligations be imposed on broadcasters and that broadcasters have the choice of which program streams they will use to fulfill their existing obligations to broadcast children's programming and programming that serves local needs. In proposing this choice, I am not referring to broadcasters' obligations to utilize closed captioning or to provide equal access to political candidates.

## **Introduction**

Imposing public interest obligations on broadcasters should serve the goal of providing access to programming that educates and informs about public affairs to those people who want access to this type of programming. This goal should not be confused with the goal of forcing viewers to be interested in "public interest" programming. The FCC needs to keep this distinction in mind when considering the public interest obligations it will impose on broadcasters as they make the transition to DTV. While the FCC has a legitimate interest in promoting access to different types of programming, it should not be in the business of attempting to force viewers to watch programming the government has determined is beneficial to the public.

Digital Television will allow broadcasters to give viewers more choices in deciding which programs to watch by offering television stations more program streams over which they can air their broadcasts. Broadcasters should be given the discretion to fulfill their obligation to air public interest programming on whichever of these streams they choose, as long as viewers have access to those streams. (As stated above, this does not include broadcasters' obligations to utilize closed captioning or to provide equal access to political candidates). If the viewer can gain access to the public interest programming, the FCC has achieved its goal. Requiring broadcasters to fulfill their duty to air public interest programs on each program stream can only

serve the goal of forcing viewers who are not interested in watching "public interest" programming to choose between watching government imposed programming and not watching broadcast television at all. Rather than promoting DTV as a tool for serving the public interest, these regulations could have the unintended consequence of chasing viewers away from broadcast television altogether.

Another point that the FCC should pay attention to when considering these regulations is the operation of the free market. In a free market system, the consumer ultimately decides which products will be available. The government does not have to tell the manufacturer what products to make. The manufacturer makes the products that consumers are buying.

The free market is equally suited to determine which programs are shown on television. Broadcasters want people to watch their programs. They have long realized that the way to achieve this goal is to broadcast programs that people want to watch. If the public is interested in a program, broadcasters will naturally broadcast that program. Digital television will not change this obvious dynamic. If DTV can enable broadcasters to serve the public in new and better ways, and the public wants this service, broadcasters will respond without government intervention. Therefore, I believe that, at the very least, no new public interest obligations should be imposed on broadcasters as they change over to DTV.

### Children's Programming

When broadcasters air programming that benefits children, the public interest is definitely served. Children in the United States gain large amounts of information by watching television. I believe that the public has an interest in making sure that suitable information is available to children on broadcast television. However, I also believe that excessive government regulation is not the proper means for ensuring this availability.

Broadcasters doing business in the free market realize that a large portion of their audience is children. Broadcasters want people to watch their programs and they realize that children like to watch children's programs. These considerations obviously contribute to the decisions broadcasters make when they choose to air children's programming right after school hours and on Saturday mornings. The desire to appeal to a target audience and the attempt to get that audience to watch their programs are probably the biggest motivating factors causing broadcasters to air children's programming during these hours.

Of course, the public interest obligations imposed on broadcasters by the government to air children's programming may also play a part in their decision to broadcast these shows. However, I believe that the motivation these obligations provide is secondary to the motivation created by the free market. Broadcasters air children's programming because children provide

a valuable market. Currently, broadcasters are required to air only three hours of programming that is beneficial to children per week, yet many broadcast stations exceed this amount in a single day. The reason broadcasters exceed their obligations is that children watch television and broadcasters want to take advantage of an available audience. The popularity of cable stations aimed solely at children, such as Nickelodeon and Cartoon Network, provide additional evidence that children are an audience worth pursuing. Children also happen to like shows that can be considered educational. This means that broadcasters have a reason to air these programs even without government intervention.

Since children's shows are extremely popular and broadcasters like to air popular shows, broadcasters would most likely air these shows even if the government did not require them to. The goal of the FCC in imposing obligations to air children's programming should be to make sure that children have access to such programming. Since children have this access under the current regulations, I do not believe that new obligations to air children's programming should be imposed on broadcasters as they switch to DTV.

In addition, I believe that broadcasters should be allowed to choose which program streams they will use to fulfill their obligation to broadcast children's programming once stations change over to DTV. I do not think that broadcasters should be

required to broadcast children's programming on every stream, as long as all of the viewers in the broadcast area have access to the stream on which the broadcaster is fulfilling its obligation to air children's programming. The fact that the broadcaster is making children's shows available to children should satisfy the public interest in this area.

Children are very sophisticated viewers in many ways. On Sunday mornings, my three-year-old can, without my help, find the station that is airing a children's show when all of the other stations are airing talk shows. I do not think that the switch to DTV and the availability of additional programming streams will hamper his effort to find these shows. In fact, allowing a broadcaster to use only one of its programming stream to fulfill its public interest obligation to air children's programming would make matters less confusing for children, since their shows would all air on one channel. However, I do not think that broadcasters should be required to air children's programming on only one stream any more than I believe broadcasters should be required to air children's programming on all streams. The demand for children's programming after the transition to DTV may be such that broadcasters feel compelled to offer more children's programming than they offered with analog technology. The free market, through the viewer, should dictate how many program streams are dedicated to children's programming. In other words, children should ultimately decide how and where children's shows

are broadcast, not the government.

I believe that under the current regulations, broadcasters have shown a commitment to broadcast children's programming. Under these regulations, children can watch hours of children's programming every day on broadcast television. I believe that DTV will improve children's access to shows without requiring broadcasters to air these shows on each of their program streams. In addition, I believe that this requirement would be unfair to a large portion of the public that broadcast television is supposed to serve. Many viewers do not have children and are not interested in children's programming. Requiring a broadcaster to air children's programming on each of its streams will take valuable air time away from this large segment of viewers. People will actually be denied one of the greatest benefits that DTV should provide. This benefit is variety. The government should be satisfied when its goal of providing children access to appropriate programming is achieved. This goal of access will be achieved in a fair manner by allowing broadcasters to choose which program streams they will use to fulfill their obligation of broadcasting children's programming.

#### **Serving Local Needs**

Another public interest obligation of broadcasters with which I am concerned is broadcasters' obligation to service the local needs of their communities. As in the area of children's broadcasting, I believe that no new obligations should be imposed



on broadcasters as they switch to DTV. If viewers are interested in this type of programming, broadcasters will air it.

The term "public interest obligations" suggests that the public is interested in this type of information. Since the goal of broadcasters is to get people to watch their programs, broadcasters obviously want to air programs that are interesting to viewers. Broadcasters compete with other broadcasters in their area. If viewers are interested in public affairs and information about their community, they are going to watch the station that offers the most programs containing this information. The government does not need to impose new obligations on broadcasters to air more programming that serves local needs. If the community wants more of this type of programming, broadcasters will air it if they have the technology to do so.

The goal of the FCC in this area should be to ensure that broadcasters provide access to information about local concerns to the community. Since broadcasters using DTV will have the capacity to broadcast over more than one program stream, they can provide access to a wider variety of shows. Broadcasters should be allowed to fulfill their obligation to air programs that service local needs over whichever of these streams they choose.

Under this system, viewers who are interested in local information will have access to that information, and viewers who are not interested can choose to watch something else aired by

the same broadcaster. By requiring broadcasters to air "public interest" information on all available streams, the FCC may inadvertently chase viewers away from broadcast television altogether. Broadcasters must compete with cable and satellite television, both of which offer vast amounts of variety. Digital television will allow broadcasters to be more competitive with these companies by allowing them to provide more variety as well. Allowing broadcasters to choose the program streams over which they fulfill their public interest obligations will both provide the desired access to public interest programming and allow broadcasters to offer and take advantage of more variety. With proper regulation, DTV will enable broadcasters to offer more information about local concerns without the fear of chasing away those viewers who are not interested in this type of programming.

### **Conclusion**

I believe that children's programming and programming that provides information about local concerns are important services offered by broadcasters. I also believe that the FCC has a valid interest in ensuring that broadcasters continue to serve the public as they make the transition from analog to DTV. However, I do not believe that excessive government regulation is necessary to achieve this goal. The free market and viewers' interests should dictate the programs aired by broadcasters. Digital television will offer broadcasters new opportunities to better serve the public. If the public wants this service,